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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,805	09/24/2003	Maurice Valen	IMP-102	4324
69597 7590 12/06/2007 MAXINE BARASCH & ASSOCIATES, PLLC 18 CORPORATE WOODS BOULEVARD ALBANY, NY 12211			EXAMINER STOKES, CANDICE CAPRI	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 12/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/668,805

Applicant(s)

VALEN, MAURICE

Examiner

Candice C. Stokes

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kumar (USPN 6,364,662). Kumar discloses a single, one-piece, multifunctional rotary tool bit 10 for a drilling and cutting system adapted for preparing an osteotomy in a bone, comprising: a) a longitudinal, rotatable shaft end and a distal end; having a proximal (see column 6, lines 24-25) b) a mounting shank 22 disposed at said proximal end of said longitudinal, rotatable shaft for interfacing with a handpiece of an osteotomy cutting and drilling system; c) a cutting and drilling blade 24 having a proximal end and distal end, disposed at said distal end of said longitudinal rotatable shaft, said cutting and drilling blade including a plurality of cutting edges 34,36 and surfaces for cutting and drilling bone and tissue material; and d) an osteotomy locator tip 38 having dual lobes disposed in a common plane, formed at said distal end of said cutting and drilling blade 24, to locate an osseous implant site and prevent wandering and slipping of said tip. This also anticipates claim 15. Regarding claims 4 and 18, said cutting and drilling blade 24 has multifaceted cutting edges 34 for creating a crestal bone height reducer. With regards to claims 5 and 19, said proximal end of said cutting and drilling blade 24 comprises a tapered countersink (tapers from where reference #26 ends to where reference #44 begins as shown in

Figure 3). Kumar also discloses the last portion of said proximal end of said cutting and drilling blade immediately after said tapered countersink further comprises a gross osseous crestal bone height reducer 44. This anticipates claims 6 and 20. As to claims 7 and 21, the tool bit 10 further comprises an osteocompressor (inherently the bone is compressed by the tool bit) operatively connected to said gross osseous crestal bone height reducer 44. With respect to claims 8, 11, 22, and 25, Kumar discloses the cutting and drilling blade 24 is coated with material 20 to reduce the coefficient of friction, improve drilling and cutting performance, improve wear and corrosion resistance, and increase the thermal conductivity of said cutting and drilling blade 24.

Specifically Kumar discloses "at least a portion of the tool bit or dental instrument 10 (Fig. 1) is coated with an amorphous hard carbon coating or film 20, as schematically illustrated in Fig. 2. The coating 20 can comprise, for example, a diamond-like carbon (DLC) coating 20" (column 5, lines 9-13). Further Kumar discloses, "one advantage of the coating 20 (Fig. 2) is that it provides a reduced coefficient of friction (enhanced lubriciousness) between the jawbone and the hard carbon coated dental instrument of the present invention, and desirably improves the cutting performances" (column 5, lines 46-51). in accordance with claim 7, wherein said to reduce blade. This also anticipates claims 9, 12, 23, and 26. Regarding claims 10 and 24, the tool bit 10, further comprising a linking member 26 operatively connecting said gross crestal bone height reducer and said mounting shank. Further, the linking member 26 is also coated with a material 20 to reduce the coefficient of friction, and improve wear and corrosion resistance of said linking member. With respect to claims 13 and 27, the tool bit 10, wherein said mounting shank 22 includes a chuck 28 comprising a generally I-shaped flat side 50 and a generally semicircular disk 54 above and adjacent to a generally semicircular groove 56. Finally to claims 14 and 28,

Kumar discloses the tool bit 10 in combination with a rotation providing handpiece 110 (as shown in Figure 1) to form a dental drilling and cutting system. With regard to the amended version of claim 1, the bit also comprises an osteocompressive portion (a portion that compresses the bone) axially aligned with and disposed at the distal end of the shaft.

2) Claims 3 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar. Kumar discloses the claimed invention except for the redirectable tip being approximately 2mm in length. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the redirectable tip being any size capable of fitting on the tool bit in order to be used in the jaw of a patient, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

***Allowable Subject Matter***

Claim 29 is allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 1 and 4-28 have been considered but are not persuasive. The language added or amended does not provide any further structure to the claims which renders the invention patentable over the prior art of record. Therefore, the rejections have been upheld.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Candice C. Stokes whose telephone number is (571) 272-4714.

The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Candice C. Stokes

  
CRIS RODRIGUEZ  
SUPERVISORY PATENT EXAMINER  
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